

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

MICHEAL N.B. ATTAWAY,

Plaintiff,

vs.

**C/O GLOVER,
and JOHN DOES 1 AND 2,**

Defendants.

Case No. 24-cv-1565-SPM

MEMORANDUM AND ORDER

McGLYNN, District Judge:

This matter is before the Court for case management. Plaintiff filed this action on June 21, 2024, after his release from prison. On November 12, 2024, the Court ordered Plaintiff to show cause about his desire to maintain this action, noting it was one of 22 cases Plaintiff had filed in a one-year period, and that many of his cases had been dismissed in recent months for non-prosecution. Plaintiff was invited to notify the Court within 21 days, by December 3, 2024, of his wishes to pursue or withdraw this matter. Plaintiff has not responded. Therefore, the Court now finds that Plaintiff has abandoned this action so it will be dismissed for failure to prosecute.

IT IS HEREBY ORDERED that this action is **DISMISSED with prejudice** for failure to prosecute. FED. R. CIV. P. 41(b); *see generally James v. McDonald's Corp.*, 417 F.3d 672, 681 (7th Cir. 2005); *Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Lucien v. Breweur*, 9 F.3d 26, 29 (7th Cir. 1993) (dismissal for failure to prosecute is presumptively with prejudice).

If Plaintiff wishes to appeal this dismissal, his notice of appeal must be filed with this Court within thirty days of the entry of judgment. FED. R. APP. P. 4(a)(1)(A). A motion for leave to appeal *in forma pauperis* must set forth the issues Plaintiff plans to present on appeal. *See* FED.

R. APP. P. 24(a)(1)(C). If Plaintiff does choose to appeal, he will be liable for the \$505.00 appellate filing fee irrespective of the outcome of the appeal. *See* FED. R. APP. P. 3(e); 28 U.S.C. § 1915(e)(2); *Ammons v. Gerlinger*, 547 F.3d 724, 725-26 (7th Cir. 2008); *Sloan v. Lesza*, 181 F.3d 857, 858-59 (7th Cir. 1999); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998). Moreover, if the appeal is found to be nonmeritorious, Plaintiff may also incur another “strike.” A proper and timely motion filed pursuant to Federal Rule of Civil Procedure 59(e) may toll the 30-day appeal deadline. FED. R. APP. P. 4(a)(4). A Rule 59(e) motion must be filed no more than twenty-eight (28) days after the entry of the judgment, and this 28-day deadline cannot be extended.

The Clerk is **DIRECTED** to **CLOSE THIS CASE** and enter judgment accordingly. Plaintiff’s Motion to Proceed In Forma Pauperis (Doc. 2) is **DENIED** as **MOOT** in light of the dismissal for failure to prosecute.

IT IS SO ORDERED.

DATED: December 10, 2024

s/ Stephen P. McGlynn
STEPHEN P. MCGLYNN
United States District Judge